

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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In re Patent Application of:  
Valerie Legrand et al.

Application No.: 10/826,690

Confirmation No.: 9585

Filed: April 19, 2004

Art Unit: 1618

For: MICROPARTICULATE ORAL GALENICAL  
FORM FOR THE DELAYED AND  
CONTROLLED RELEASE OF  
PHARMACEUTICAL ACTIVE PRINCIPLES

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Examiner: L. H. Schlientz

**RENEWED PETITION FOR UNINTENTIONALLY DELAYED  
CLAIM FOR PRIORITY UNDER 37 CFR § 1.78(a)(3)**

MS Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The above-identified application has an incomplete priority claim.

Paragraph [0001] of the current specification reads

“This application is a continuation-in-part of Application No. \_\_\_\_\_, which is the National Stage of International Application No. PCT/FR02/03443, filed Oct. 9, 2002, and claims the benefit of FR01/12999, filed Oct. 9, 2001, each of which is incorporated herein by reference.”

When this application was filed on April 19, 2004, the application number of the parent application, filed April 7, 2004, was unavailable. As such, the application number of the parent application could not be provided at the time of filing. Paragraph [0001] incorporated by reference the pending application with all information available at the time of filing. The petition requests completion of the information by adding the application number.

As per 37 CFR §1.78(a)(3), we therefore submit a statement that the entire delay between the date the claim was due under paragraph 37 CFR (a)(2)(ii) and the date the claim

was filed is unintentional. It is submitted, therefore, that on the basis described above the delay in filing priority claim should be held to be inadvertent.

We previously filed a Petition to Amend Priority, but the June 24, 2009 Decision denied the petition because it improperly incorporated the amendment in the Petition. Therefore, we attach an Amendment with changes to the specification as specified by the Examiner. Given the Petition was denied, this renewed petition is being submitted.

As amended, we petition to amend the priority and the specification such that Paragraph [0001] will read:

“This application is a Continuation-in-Part of Application No. 10/492,129, filed July 19, 2004, currently pending, which is the National Stage of International Application No. PCT/FR02/03443, filed Oct. 9, 2002, which claims the benefit of FR01/12999, filed Oct. 9, 2001. International Application No. PCT/FR02/03443 and FR01/12999 are incorporated herein by reference.”

As the application number of the parent application was not available at the time of filing, entry of the above priority claim is respectfully requested.

Please charge our Credit Card in the amount of \$1,410.00 covering the fee set forth in 37 C.F.R. 1.17(t). The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 50-2228, under Order No. 022290.0116C1US.

Dated: July 7, 2009

Respectfully submitted,

By /William J. McKeague/  
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**AMENDMENT IN RESPONSE TO FINAL OFFICE ACTION**

MS Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**INTRODUCTORY COMMENTS**

This amendment is filed in reply to the Final Office Action dated January 7, 2009, for which a response was due April 7, 2009. Applicants include with this response a Petition for Extension of Time pursuant to 37 C.F.R. § 1.136(a) for three months to extend the deadline to file this response to July 7, 2009. Applicants also submit concurrently a request for continued examination (RCE) pursuant to 37 C.F.R. § 1.114. This response is timely filed July 7, 2009.

**Amendments to the Specification** begin on page 2 of this paper.

**Remarks/Arguments** begin on page 3 of this paper.

**AMENDMENTS TO THE SPECIFICATION**

Page 1, after the title and before the first paragraph of the specification, please AMEND the following paragraph as follows:

**“CROSS-REFERENCE TO RELATED APPLICATIONS”**

This application is a continuation-in-part of Application No. 10,492,129, filed July 19, 2004, currently pending, which is a National Stage of International Application No. PCT/FR02/03443, filed Oct. 9, 2002, and which claims the benefit of FR01/12999, filed Oct. 9, 2001, ~~each of which are incorporated herein by reference.~~ International Application No. PCT/FR02/03443 and FR01/12999 are incorporated herein by reference.

### **REMARKS**

The Office Action mailed January 7, 2009, was reviewed and the comments of the Patent and Trademark Office were considered. An amendment and response was filed April 7, 2009, which was subsequently entered. In an Advisory Action dated July 1, 2009, the Examiner stated that the claims stood rejected because the petition to amend the priority claims was denied. A renewed Petition under 35 C.F.R. § 1.78(a)(3) is attached to correct the priority date to October 9, 2001.

### **CONCLUSION**

Upon grant of the petition and entry of the amendment, the outstanding rejection of the claims will be moot. The Applicants hereby submit a request for a three-month extension of time under 37 C.F.R. § 1.136, a Request for Continued Examination pursuant to 37 C.F.R. § 1.114, and the accompanying fees. Please charge our Credit Card in the amount of \$1,920.00 covering the fees set forth in 37 C.F.R. § 1.17(e) and 1.17(a). In the event that any additional extensions of time are necessary to prevent the abandonment of this patent application, then such extensions of time are petitioned. The U.S. Patent and Trademark Office is authorized to charge any additional fees that may be required in conjunction with this submission to Deposit Account Number 50-2228, under Order Number 022290.0116C1US.

Dated: July 7, 2009

Respectfully submitted,

By           /William J. McKeague/            
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